

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to HCBS elderly waiver budget cap

The Human Services Department hereby amends Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2020 Iowa Acts, House File 2269.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2269.

Purpose and Summary

During the 2020 Legislative Session, House File 2269 directed the Department to eliminate the monthly budget maximum or cap for individuals eligible for the Medicaid home- and community-based services (HCBS) elderly waiver. These amendments remove the total limit on the monthly cost of care for the elderly waiver.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 18, 2020, as **ARC 5277C**. The Department received one letter of support from a nonprofit organization representing over 800 providers of elderly and disabled services through home health agencies, assisted living programs and nursing facilities. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on January 14, 2021.

Fiscal Impact

The fiscal impact of increasing or eliminating a waiver monthly cap must be calculated; however, because the majority of the HCBS elderly waiver members’ assessed needs are currently met within the established funding limits, the anticipated increase is cost-neutral or minimal. The Department estimated the fiscal impact of removing the monthly waiver funding cap by looking at approved exceptions to policy. Even though most elderly waiver service plans have a monthly maximum funding cap, the established exception-to-policy process allows for funding in excess of the waiver cap for medically necessary services to meet a member’s assessed needs. During calendar year 2019, the Iowa Medicaid Enterprise received 14 exception-to-policy requests to exceed the elderly waiver monthly cap; all of these requests were approved. A nominal fiscal impact of less than \$250,000 is expected.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 1, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **83.22(2)“c”(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the member. ~~The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs, excluding the cost of case management and home and vehicle modifications, are limited as follows:~~

<u>Skilled level of care</u>	<u>Nursing level of care</u>
\$2,792.65	\$1,365.78

ITEM 2. Amend paragraph **83.28(1)“c”** as follows:

c. Service needs ~~exceed the aggregate monthly costs established in 83.22(2)“b,”~~ or are not met by services provided.

ITEM 3. Rescind paragraph **83.28(2)“b.”**

ITEM 4. Reletter paragraphs **83.28(2)“c”** to **“e”** as **83.28(2)“b”** to **“d.”**

[Filed 1/15/21, effective 4/1/21]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/10/21.